

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 331

**Introduced by Senator Romero
(Coauthors: Senators Alquist, Hancock, and Liu)**

February 25, 2009

An act to amend Sections 54440, 54441.5, 54442, 54443.1, 54444.1, and 54444.2 of the Education Code, relating to migrant education.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Romero. Migrant education.

(1) Existing law requires the State Board of Education to adopt a state master plan for services to migrant children, as defined, that includes the provision of specified services and activities.

This bill would require the state master plan and state services delivery plan to be developed and revised as necessary by the Superintendent of Public Instruction and the statewide parent advisory council, and would require the plan to include the collection of individual and aggregate data for migrant pupils, as specified.

(2) *Existing law deems a child who is identified as a "migrant child" to continue to be a migrant child for up to 5 years during which he or she resides in an area where programs are provided for migrant children. Existing law requires priority to be given to programs and activities for migrant children and prohibits migrant programs from being provided solely for children who have ceased to migrate.*

This bill would reduce the number of years a child is deemed to be a migrant child from 5 to 3 and would delete the provisions above regarding priority and the prohibition against programs solely for children who have ceased to migrate.

(3) Existing law requires the Superintendent of Public Instruction to establish the service regional system as the primary method for the delivery of services to migrant children and requires that regions be contiguous, with no less than 1,500, and no more than 8,000, migratory children.

The bill would delete the cap on the number of migratory children that may be served in a region.

~~(2)~~

(4) Existing law requires each operating agency that receives migrant education funds or services to establish a parent advisory council to actively solicit parent involvement in the planning, operation, and evaluation of its programs.

This bill would require interpretation to be provided at each state and regional migrant parent advisory council meeting by a person trained in interpreting and who is fully fluent in English and in the language understandable to the parents.

(5) Existing law requires the Superintendent of Public Instruction to sponsor an annual state parent advisory council conference and requires the council to prepare and submit a report to the Legislature, the State Board of Education, and the Governor regarding the status of the migrant education program.

The bill would require the report to include an evaluation of the program, a review of annual needs, a year-end assessment, policy recommendations, and the data collected regarding the program. The bill would authorize the state parent advisory council to approve an individual or group to provide technical assistance needed to draft the report if the Superintendent or the department do not provide the council with that training. The bill would require this assistance to be objective and provided free of charge.

~~The~~

(6) The bill also would ~~also~~ make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 54440 of the Education Code is amended to read:

54440. The Legislature finds and declares ~~that~~ *all of the following:*

(a) A significant number of children under the age of 18 ~~of whose parents are~~ migratory agricultural workers ~~and or~~ migratory fishermen reside in California for at least a part of each year. These children, from among the least affluent segments of American society, tend to move frequently, attend school irregularly, and suffer health problems and language barriers. This results in many becoming early school dropouts, poorly prepared to enter the workforce or for academic success and upward social mobility.

(b) The problems of children of migratory agricultural parents and of migratory fisherman parents are of such magnitude and severity that local school districts have been unable to solve them with the resources normally available. It is, therefore, necessary for the state to aid local school districts through regional coordinating offices; and the provision of special programs of educational and related services for these children.

SEC. 2. Section 54441.5 of the Education Code is amended to read:

54441.5. With the concurrence of the child's parent, a child who has been identified as a "migrant child" may be deemed a migrant child for a period, not in excess of ~~five~~ *three* years, during which the child resides in an area where programs are provided for ~~migrant children. Priority shall be given to programs and activities for migrant children, and in no case shall migrant programs be provided solely for children who have ceased to migrate.~~ *migrant children.*

SEC. 3. Section 54442 of the Education Code is amended to read:

54442. The state board shall adopt a state master plan for services to migrant children. ~~Beginning with the next adoption cycle, the state master plan and state services delivery plan shall be developed and revised as necessary by the Superintendent and the statewide parent advisory council established pursuant to Section 54444.2. The state master plan also may be known as the state services delivery plan. Commencing with the next revision,~~

1 *amendment, or adoption after July 1, 2011, the Superintendent,*
2 *in collaboration with the statewide parent advisory council as*
3 *required by federal law, shall develop and revise, as necessary,*
4 *the state services delivery plan. The plan shall include all of the*
5 *following:*

6 (a) Instructional activities on a regular and extended year-basis
7 *basis. These activities* shall be designed to identify, ~~diagnose~~
8 *assess,* and provide treatment for academic deficiencies of migrant
9 children. Special emphasis shall be given to oral and written
10 communications, reading, and mathematics. Small group or
11 individual instruction and tutorial services shall be provided to
12 assist migrant children to attain normal progress rates in all subject
13 areas. All instructional services shall be provided as supplements
14 to regular programs of instruction provided by the public schools
15 for all children.

16 (b) Health and welfare ~~services services.~~ *These services* shall
17 be designed to identify, ~~diagnose, and provide treatment for~~
18 ~~conditions of a physical nature, including dental, emotional, or~~
19 ~~environmental, that interfere with the learning processes of migrant~~
20 ~~children. Insofar as possible,~~ *assess, and provide treatment for*
21 *conditions that interfere with the education and learning of migrant*
22 *children, including dental, emotional, or environmental conditions.*
23 *To the extent possible,* existing community resources will be
24 utilized to provide these services.

25 (c) Preservice and in-service education of professional and
26 nonprofessional ~~personnel personnel.~~ *This education* shall be
27 planned to prepare school administrators, teachers, aides, and other
28 personnel to meet the special needs of migrant children.

29 (d) Supportive services including transportation, family liaison,
30 and other services necessary to the success of the programs.

31 (e) Child development activities including, but not limited to,
32 social, sensorimotor, conceptual and language development, and
33 perceptual discrimination activities for migrant infants and
34 prekindergarten children too young to participate in instructional
35 services normally provided by the public schools.

36 (f) The active involvement of parents, teachers, and community
37 representatives in the local implementation of migrant education
38 programs.

39 ~~(g) Collection of individual and aggregate data for migrant~~
40 ~~pupils regarding all of the following:~~

- 1 ~~(1) Identification of migrant children.~~
- 2 ~~(2) Preschool participation.~~
- 3 ~~(3) Enrollment in kindergarten and grades 1 to 12, inclusive.~~
- 4 ~~(4) Achievement.~~
- 5 ~~(5) access, enrollment, and completion of courses that fulfill~~
- 6 ~~the A-G subject area requirements.~~
- 7 ~~(6) Suspension, expulsion, transfer, and dropout rates, and failure~~
- 8 ~~to enroll or reenroll.~~
- 9 ~~(7) Graduation and completion of the high school exit~~
- 10 ~~examination.~~
- 11 ~~(8) Retention measures.~~
- 12 ~~(9) Enrollment.~~
- 13 ~~(10) Designation and redesignation of English learners.~~
- 14 ~~(11) Postsecondary enrollment.~~
- 15 ~~(12) Vocational education opportunities.~~
- 16 ~~(13) Health services.~~
- 17 ~~(14) Intercession programs.~~
- 18 ~~(15) Other supplemental services.~~
- 19 ~~(16) Staff experience and evaluation.~~
- 20 ~~(17) Data collection and evaluation.~~
- 21 ~~(18) Records transfer.~~
- 22 ~~(19) Parental involvement, including establishment of and~~
- 23 ~~participation in the migrant parent advisory committee, conduct~~
- 24 ~~of regular meetings, participation in the development and approval~~
- 25 ~~of the local migrant education plan, participation in statewide~~
- 26 ~~parent advisory committee activities, and parent training.~~
- 27 *(g) Collection through the California Longitudinal Pupil*
- 28 *Achievement Data System and the Migrant Student Database of*
- 29 *the following individual and aggregate data regarding migrant*
- 30 *children:*
- 31 *(1) Eligible migrant children.*
- 32 *(2) Preschool participation in migrant education funded*
- 33 *programs.*
- 34 *(3) Enrollment in kindergarten and grades 1 to 12, inclusive.*
- 35 *(4) Achievement based on the California Standards Tests and*
- 36 *the high school exit examination.*
- 37 *(5) Enrollment in and completion of courses that satisfy the*
- 38 *subject requirements for admission to the California State*
- 39 *University and the University of California.*
- 40 *(6) Suspensions and expulsions.*

1 (7) *Dropout rates.*

2 (8) *Graduation and completion of the high school exit*
3 *examination.*

4 (9) *Retention in grade level.*

5 (10) *Designation and redesignation of English learners.*

6 (11) *Completion of career technical education courses.*

7 (12) *Distribution of teachers based on highly qualified status*
8 *and years of experience in education.*

9 (h) Individual and aggregate enrollment data—~~shall also~~ *also*
10 *shall* include separate data concerning the number of migrant pupils
11 enrolled in alternative education programs including, but not
12 limited to, juvenile court schools, county community schools,
13 community day schools, continuation high schools, and
14 independent studies.

15 SEC. 4. Section 54443.1 of the Education Code is amended to
16 read:

17 54443.1. Migrant education programs shall include all of the
18 following:

19 (a) An individual assessment of the educational and relevant
20 health needs of each participating pupil within 30 days of
21 enrollment. This assessment shall include assessments concurrently
22 provided pursuant to compensatory education,
23 bilingual-crosscultural education, school improvement programs,
24 and other programs serving the pupil.

25 (b) A general needs assessment developed in compliance with
26 federal requirements summarizing the needs of the population to
27 be served.

28 (c) A comprehensive program to meet the educational, health,
29 and related needs of participating pupils which is supplemental to
30 the program the operating agency is otherwise required to provide.
31 The program shall include, but need not be limited to, the
32 following:

33 (1) Academic instruction.

34 (2) Remedial and compensatory instruction.

35 (3) Bilingual and crosscultural instruction.

36 (4) ~~Vocational~~ *Career technical* instruction.

37 (5) Counseling and career education services.

38 (6) Preschool services in accordance with Section 54443.

39 (7) Other educational services that are not available in sufficient
40 quantity or quality to eligible migratory children.

1 (8) The acquisition of instructional materials and equipment
2 necessary to adequately provide the appropriate services.

3 (9) Other related services to meet the special needs of eligible
4 migratory children which are necessary to enable these children
5 to effectively participate in instructional services.

6 (10) The coordination and teaming of existing resources serving
7 migrant pupils, such as bilingual-crosscultural education, health
8 screening, and compensatory education.

9 (d) A brief individual learning plan listing the services to be
10 provided to each pupil shall be provided in writing or at a parent
11 conference to the parent or guardian of each participating pupil,
12 annually and each time the pupil moves to a new district.

13 (e) Staffing and staff development plans and practices to meet
14 the needs of pupils and implement the program.

15 (f) Parent and community involvement as specified in Section
16 54444.2.

17 (g) Evaluations which shall include annual pupil progress and
18 overall program effectiveness and quality control reports.

19 (h) School districts and other education agencies shall be eligible
20 to apply for funding to serve migrant pupils upon application to
21 their respective region, or, if they meet the criteria established in
22 subdivision (b) of Section 54444.1, to the department. Operating
23 agencies shall include in their application a description of how the
24 entities will coordinate the planning, budgeting, and operation of
25 the migrant education programs with the planning, budgeting, and
26 operation of other federal and state education programs addressing
27 the needs of the same or similar pupils of the operating agency.
28 The description shall include time lines and cover services provided
29 through school improvement, nonmigrant Title I, state
30 compensatory and limited- and non-English proficient, Title VII,
31 and other funds. If the application meets state and federal
32 requirements, negotiations for an appropriate service agreement
33 shall begin involving the parties listed in subdivision (a) or (b) of
34 Section 54444.1.

35 SEC. 5. Section 54444.1 of the Education Code is amended to
36 read:

37 54444.1. (a) In implementing the state master plan for services
38 to migrant children, the Superintendent shall establish the service
39 regional system as the primary method for the delivery of services
40 to migrant children. The Superintendent shall review and approve

1 plans for the establishment of service regions and shall incorporate
2 the following criteria in the approval of regional plans:

3 (1) The boundaries of regions shall include all geographic areas
4 with migrant and seasonal agricultural workers and fishermen.

5 (2) Regional service centers shall be located in areas with high
6 concentrations of migrant and seasonal agricultural workers and
7 fishermen. Regional headquarters shall be located: ~~(A) in~~ *located*
8 *as follows:*

9 (A) *In* areas requiring large numbers of these workers for a
10 period of at least two consecutive months during each year, ~~(B) in~~
11 *year.*

12 (B) *In* areas which normally contract for migrant and seasonal
13 agricultural workers with families rather than single adults, and
14 ~~(C) in~~ *adults.*

15 (C) *In* areas where migrant and seasonal agricultural workers
16 are involved in the transition from hand labor to mechanization.

17 (3) Regions shall be located in each geographic area of the state,
18 except areas within the boundaries of directly funded districts.

19 (4) Except areas within the boundaries of directly funded
20 districts, regions shall be contiguous to one another and should
21 ~~have no less than 1,500 and no more than 8,000 currently migratory~~
22 ~~children based upon full-time equivalent enrollment. In no event~~
23 ~~have no less than 1,500 migratory children. In no event~~ shall a
24 county be split among two separate regions in order to meet the
25 requirements of this paragraph.

26 (5) Regions shall be organized so as to provide quality services
27 to all affected parties and maintain fiscal procedures in conformity
28 with requirements adopted by the department.

29 (6) The boundaries of regions shall be drawn in ~~such~~ a manner
30 ~~as to avoid~~ *that avoids* excessive commuting by personnel or by
31 participants in the programs, not to exceed 100 miles from the
32 schoolsite to the operating agency.

33 (7) If a proposed region cannot meet the criteria established in
34 paragraph (4) or (6), it may request that the criteria be waived by
35 the state board. The waiver request shall be based upon a study,
36 conducted by the entities, including their respective parent advisory
37 councils, comprising the proposed region, that explains why the
38 waiver is required and that describes likely outcomes if the waiver
39 is not granted.

1 (b) An agency meeting the criteria set forth in this subdivision
2 and subdivision (f) of Section 54441 may apply to the department
3 for designation as a region. The application shall be in a format
4 with sufficient information and at times designated by the
5 Superintendent. The application shall include documentation of
6 active participation, review and comment by the appropriate parent
7 advisory councils, and signatures by parent advisory council
8 chairpersons that the review and comment has taken place, and
9 shall further include documentation that the agencies and parent
10 representative comprising the proposed region have met as a group
11 prior to submission of the application and have agreed upon the
12 formation of, and participation in, the region and a general
13 delineation of the services which will be provided in the region.

14 Directly funded districts shall be invited by the regions to
15 participate in regional activities and meetings. Staff and parent
16 advisory council members in the districts shall also be invited to
17 regional inservice activities and conferences.

18 (c) The department may directly fund local educational agencies,
19 in whole or in part, to provide services to eligible migrant children
20 if it is cost effective to do so; if the applicant agency serves not
21 less than 1,500, nor more than 8,000, currently migratory children;
22 has sufficient programmatic and fiscal resources to deliver an
23 effective migrant education program; is in compliance with the
24 federal and state requirements regarding migrant education
25 programs; maintains an ongoing and functional parent advisory
26 council which has voted on a biennial basis to approve the
27 participation in the directly funded program, including the approval
28 of a majority of the members who are the parents of migrant
29 children; and maintains fiscal procedures in conformity with the
30 requirements adopted by the department. All districts which are
31 directly funded on January 1, 1982, may continue to be funded
32 directly, provided that the districts comply with the criteria
33 prescribed by this subdivision, except for the size criterion.

34 (d) The responsibilities of the various parties involved in the
35 delivery of services to migrant children shall be set forth in a
36 service agreement. A service agreement shall be a legally binding
37 contract signed by the duly constituted authorities at the state,
38 county, district, or private or public nonprofit agencies, or a
39 combination thereof. In the regional delivery system, there shall
40 be two parties to every service agreement; the region and the

1 district or other operating agencies in which the eligible migrant
2 pupils are enrolled. When a district or agency is funded directly
3 by the state, the parties to the service agreement shall include the
4 department and the district or operating agency in which the
5 eligible migrant pupils are enrolled. The basic responsibilities of
6 these three parties shall be as specified in Section 54444.4.

7 The parties, whether regional or directly funded, shall take the
8 necessary steps to ensure the effective involvement of the migrant
9 parent advisory committee for that district or agency.
10 Representatives of the migrant parent advisory committee shall
11 have the right to be present and participate in all deliberations
12 between the parties regarding the service agreement or any
13 subsequent changes thereto. The service agreement shall include
14 a signed statement from the officers of the migrant parent advisory
15 committee signifying that the participation has occurred.

16 (e) The Superintendent shall develop an annual operating
17 calendar for regions and directly funded districts, including dates
18 for the submission and approval of applications and service
19 agreements. Any changes in regional boundaries for the subsequent
20 fiscal year shall be made and approved by December 31 of the
21 current year. Any changes in funding allocations for regions shall
22 be made by December 31 of the current year or immediately after
23 notification of a federal grant award.

24 (f) The Superintendent shall preserve the supplemental nature
25 of the migrant education program. The program shall be maintained
26 outside the supervision or above the administrative level of the
27 consolidated application programs. The Superintendent shall not
28 incorporate the migrant education program into the consolidated
29 application process, except as provided below:

30 ~~(1) Commencing with the 1983–84 school year, directly funded~~

31 *(1) Directly funded* districts may apply for migrant education
32 funds as part of their consolidated application provided the district
33 parent advisory council on migrant education approves the
34 inclusion.

35 ~~(2) Commencing with the 1982–83 school year and pending the~~
36 ~~recommendations of the department study and task force report,~~

37 a

38 (2) A copy of the district's annual application for migrant
39 education funds as required by Section 54443.1 shall be attached
40 to the district's annual consolidated application.

1 SEC. 6. Section 54444.2 of the Education Code is amended to
2 read:

3 54444.2. (a) The Superintendent of Public Instruction shall
4 take the steps necessary to ensure effective parental involvement
5 throughout the state migrant education program, which shall
6 include, but need not be limited to, the following:

7 (1) The Superintendent shall adopt rules and regulations
8 requiring each operating agency receiving migrant education funds
9 or services to actively solicit parental involvement in the planning,
10 operation, and evaluation of its programs through the establishment
11 of, and consultation with, a parent advisory council.

12 ~~The~~
13 (A) *The* membership of each parent advisory council shall be
14 comprised of members who are knowledgeable of the needs of
15 migrant children and shall be elected by the parents of migrant
16 children enrolled in the operating agency's programs. The
17 composition of the council shall be determined by the parents at
18 a general meeting to which all parents of pupils enrolled in the
19 migrant program shall be invited. Parents shall be informed, in a
20 language they understand, that the parents have the sole authority
21 to decide on the composition of the council. All parent candidates
22 for the council shall be nominated by parents; nonparent candidates
23 shall be nominated by the groups they represent: teachers by
24 teachers, administrators by administrators, other school personnel
25 by other school personnel, and pupils by pupils. All other
26 community candidates shall be nominated by the parents. Each
27 parent advisory council shall hold meetings on a regular basis
28 during the operation of the regular program, but not less than six
29 times during the year.

30 ~~At~~
31 (B) *At* least two-thirds of the members of each parent advisory
32 council shall be the parents of migrant children. Each parent
33 advisory council shall have the responsibilities listed in subdivision
34 (a) of Section 54444.4.

35 (2) The Superintendent shall establish a statewide parent
36 advisory council which shall participate in the planning, operation,
37 and evaluation of the state migrant education program. The
38 membership of the statewide parent advisory council shall be
39 comprised of members who are knowledgeable of the needs of
40 migrant children and shall be nominated and elected by the parents

1 of migrant children enrolled in the operating agencies. At least
2 two-thirds of the members of the state parent advisory council
3 shall be the parents of migrant children. The state council shall
4 meet a minimum of six times a calendar year to provide input on
5 issues relating to the operation of the program. Special meetings
6 may be called at the discretion of the state director.

7 ~~The Superintendent shall also~~

8 (3) (A) *The Superintendent also shall sponsor an annual state*
9 *parent advisory council conference. The conference shall be*
10 *scheduled during the spring of every year.* ~~Within~~

11 (B) *Within 120 days from the conclusion of the conference, the*
12 *state parent advisory council shall prepare and submit a report to*
13 *the Legislature, ~~State Board of Education~~ state board, the*
14 *Superintendent, and the Governor regarding the status of the*
15 *migrant education program.*

16 (C) *The report shall include an evaluation of the migrant*
17 *education program, as required pursuant to paragraph (2) of*
18 *subdivision (a), a review of annual needs and a year-end*
19 *assessment, as required pursuant to paragraph (2) of subdivision*
20 *(a) of Section 54444.4, policy recommendations, and the most*
21 *recent data collected pursuant to subdivision (g) of Section 54442*
22 *to the extent that the data is available.*

23 (D) *If the Superintendent or the department do not provide the*
24 *council with training on the preparation of the report, the state*
25 *parent advisory council may approve, by majority vote, an*
26 *individual or group to provide the technical assistance needed to*
27 *draft the report. Technical assistance or training for the purpose*
28 *of drafting the report that is provided by the Superintendent or an*
29 *outside source shall be objective and provided free of charge. It*
30 *is the sole responsibility of the state parent advisory council to*
31 *determine the contents of the report.*

32 ~~(3)~~

33 (4) *The Superintendent and each operating agency shall furnish,*
34 *without charge, to the statewide and operating agency parent*
35 *advisory councils and, upon request, to each member, a copy of*
36 *all applicable state and federal migrant education statutes, rules*
37 *and regulations, and guidelines. In addition, the Superintendent*
38 *and each operating agency shall furnish, without charge, to the*
39 *statewide and operating agency parent advisory councils and, upon*

1 request, to each member, copies of all applicable state and federal
2 audits, monitoring reports, and evaluations.

3 ~~(4)~~

4 (5) The Superintendent and each operating agency shall establish
5 and implement training programs for members of the statewide
6 and operating agency parent advisory councils to enable them to
7 carry out their responsibilities. Each training program shall be
8 developed in consultation with the parent advisory councils and
9 shall include appropriate training materials in a language
10 understandable to each member. Costs incurred in providing
11 training under this paragraph, including federally authorized
12 expenses associated with the attendance of members at training
13 sessions, shall be funded, to the extent that funds are available, by
14 federal funds allocated to the state, based upon the educational
15 and related health needs of migratory children defined in
16 subdivisions (a) and (b) of Section 54441, and may be supported
17 by funds from the state migrant education program.

18 ~~(5)~~

19 (6) Interpretation shall be provided at each state and regional
20 migrant parent advisory council meeting by an individual who has
21 received training in interpreting and who is fully fluent in English
22 and in the language understandable to the parents.

23 (b) Each operating agency which provides services on a
24 statewide basis shall be exempt from the requirement that it create
25 its own parent advisory council, but shall consult the statewide
26 parent advisory council in the planning, operation, and evaluation
27 of its programs.